

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

May 24, 2012

In the Matter of BAZZI, Minors.

No. 306432

Wayne Circuit Court

Family Division

LC No. 00-392126-NA

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Before: RONAYNE KRAUSE, P.J., and SAAD and BORRELLO, JJ.

PER CURIAM.

In these consolidated appeals, respondents challenge the trial court's order that terminated their parental rights to the two minor children under MCL 712A.19b(3)(c)(i), (g), and (j). Respondent father's parental rights were also terminated pursuant to MCL 712A.19b(3)(c)(ii). For the reasons set forth below, we affirm.

I. FACTS AND PROCEEDINGS

The conditions leading to the adjudication of respondent mother's parental rights were that her utilities were shut off, and she was often heard screaming and yelling. Years earlier, respondent mother was diagnosed with bipolar disorder, and she had placed the older child (then aged three) with respondent father a few months earlier. Respondent mother refused to participate in services and said that she wished to relinquish her parental rights. Respondent father had been diagnosed as paranoid schizophrenic, but he claimed to be taking medication and participating in therapy. Later, respondent father was allowed unsupervised visitation with the younger child at his home. Before the termination hearing, respondent father was not participating in therapy or regularly taking his psychotropic medication, and the older child was removed from his custody. Based on the lack of progress by either respondent, petitioner filed a petition to terminate both respondents' parental rights.

II. STANDARD OF REVIEW

In termination proceedings, this Court must defer to the trial court's factual findings if those findings do not constitute clear error. MCR 3.977(K). Both the trial court's decision that a ground for termination has been proven by clear and convincing evidence and the best-interest determination are reviewed for clear error. *In re Rood*, 483 Mich 73, 90-91; 763 NW2d 587 (2009). "A finding is 'clearly erroneous' [if] although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been made." *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

III. TERMINATION OF RESPONDENT MOTHER'S PARENTAL RIGHTS

With regard to respondent mother, the trial court did not clearly err in finding that petitioner established the statutory grounds for termination of her parental rights by clear and convincing evidence. During the first 18 months the case was pending, respondent mother refused to participate in services. She claimed that she could not care for her daughters and stated that she wanted to give up her rights to the children. In the eight months that followed, respondent mother complied with her treatment plan, but showed no improvement. Her therapist reported that stress exacerbated the symptoms of her bipolar disorder, and respondent mother did not show progress during supervised visitation. In light of the evidence, the trial court did not clearly err in finding that respondent mother's mental stability would not improve within a reasonable time and that she would not be able to provide proper care and custody within a reasonable time. Although respondent mother never physically harmed the children, she had been convicted of abusing an older sibling. Further, the foster care worker testified that during visits respondent mother had issues redirecting the children, was unable to discipline them appropriately, and was disconnected for periods of time. The children acted out more and had more tantrums for respondent mother than respondent father, and respondent mother was not able to control their behavior. Thus, there was also a reasonable likelihood of harm to the children if they were returned to respondent mother's home.

Respondent mother argues that petitioner failed to make reasonable efforts toward reunification because petitioner failed to consult with her therapist regarding her medication and failed to provide transportation in a timely manner. Failure to make reasonable efforts may prevent petitioner from establishing grounds for termination. *In re Newman*, 189 Mich App 61, 67-68; 472 NW2d 38 (1991). As discussed, for 18 months, respondent mother refused to participate in services and said she no longer wanted to care for the children. Despite this, petitioner allowed supervised visitation and actually began to transport her to visits in June 2010. Respondent mother decided to comply with services in January 2011, and there is no indication in the record that she had any transportation problems after that time. Further, petitioner had records demonstrating that respondent mother saw her psychiatrist monthly for medication reviews and had weekly therapy. Although it was reasonable here for petitioner to provide psychiatric and psychological services, once those services were in place, petitioner was not also required to consult with her doctor regarding the effectiveness of prescriptions in order to make reasonable efforts at reunification. For these reasons, and considering the short time that respondent mother was willing to participate in services, petitioner's efforts were reasonable.

IV. TERMINATION OF RESPONDENT FATHER'S PARENTAL RIGHTS

With regard to respondent father, the trial court did not clearly err in ruling that petitioner established statutory grounds for termination of his parental rights by clear and convincing evidence. The conditions leading to the adjudication with regard to respondent father were concerns about his medication use with alcohol and his mental health diagnosis. A year after the adjudication, the older child was removed from respondent father's care because of his failure to take his psychotropic medication and failure to engage in weekly therapy, although he had been telling his foster care worker that he was doing both.

Respondent father's mental health was not such that he could care for the children. He failed to recognize safety concerns, had unreasonable expectations for the children's age levels, he displayed defensiveness, and his mental condition caused him to focus on the secret meaning of words and numbers rather than the children. Respondent father argues that he was able to provide proper care and custody for the older child during the year that she lived with him, but the record reflects that safety concerns developed at every visit respondent father had with his daughters. Although the child was not physically injured during the time she lived with respondent father, she was clearly emotionally injured as evidenced by her need for play therapy to treat attachment issues and anxiety. Respondent father had a very rigid view of the children, and their acting outside of that view caused him stress, which seemed to increase the symptoms of his mental illness. Therefore, the trial court did not clearly err when it ruled that respondent father was unable to provide proper care and custody for the children at the time of the termination hearing, there was no reasonable likelihood that he would be able to provide proper care and custody within a reasonable time, and there was a reasonable likelihood the children would be harmed if placed in respondent father's home.

V. BEST INTERESTS

We further hold that the trial court did not clearly err in its best-interest determination with regard to both respondents. "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). Although respondent mother made progress with housing, her mental instability remained the same. For much of the time the children were in foster care, she refused to participate in services other than visiting them and said that she was not able to take care of them because of her bipolar disorder. With regard to respondent father, he had ongoing mental health problems and the foster care worker testified that the children sought help from the foster care worker to attend to their needs during visits. In light of both respondents' ongoing mental health issues, which prevented adequate parenting, the trial court did not err in finding that termination of both parents' parental rights was in the children's best interests.

Affirmed.

/s/ Amy Ronayne Krause
/s/ Henry William Saad
/s/ Stephen L. Borrello